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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/632,406 | 08/01/2003 | Clifford H. Kraft | | 2935 |

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| EXAMINER |
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GARY, ERIKA A

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| ART UNIT | PAPER NUMBER |
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2681

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,406

Applicant(s)

KRAFT, CLIFFORD H.

Examiner

Erika A. Gary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: on line 14, "relation" should be "relational". Appropriate correction is required.

Claim 12 is objected to because of the following informalities: "said longitude" should be "a longitude". Appropriate correction is required.

Claim 17 is objected to because of the following informalities: on line 1, "provide" should be "provider". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross, US Patent Application Publication Number 2003/0236095 (hereinafter Ross).

Regarding claim 1, Ross discloses a telephone location system comprising: an assisted GPS telephone handset; a telephone service provider providing assisted GPS telephone location services in communication with said handset; a consumer location service facility accepting a request from a consumer to locate a particular cellular

handset, said consumer location service facility cooperating with said telephone service provider to determine a telephone handset location of said particular telephone handset, said consumer location facility then communicating said telephone handset location to said consumer [paragraphs 0004, 0025, 0053, 0058].

Regarding claim 2, Ross discloses the telephone handset location is returned to said consumer by verbal description [paragraph 0053].

Regarding claim 3, Ross discloses said telephone handset location is supplied to said consumer by means of a map [paragraph 0019].

Regarding claim 4, Ross discloses said consumer location facility communicates with said consumer by Internet [paragraph 0053].

Regarding claim 5, Ross discloses said consumer location facility returns a longitude and latitude to said consumer [paragraph 0028].

Regarding claim 6, Ross discloses said telephone handset location is blocked by an action of an owner of said telephone handset [paragraph 0051].

Regarding claim 7, Ross discloses a method for providing consumers a telephone handset location comprising: requesting a telephone handset location from a consumer service facility; said consumer service facility requesting an assisted GPS service provider for a location of said handset; said assisted GPS service provider determining the location of said handset, said assisted GPS service provider communicating the location of said handset to said consumer facility; receiving by the consumer the location of said handset from said consumer service facility [paragraphs 0004, 0025, 0053, 0058].

Regarding claim 8, Ross discloses blocking said request when a handset owner has requested privacy [paragraph 0051].

Regarding claim 9, Ross discloses said request is via the Internet [paragraph 0053].

Regarding claim 10, Ross discloses a consumer service that provides locations of mobile telephones on demand from consumers for a fee, said consumer service comprising a means for communicating a consumer request for location of a mobile telephone to a mobile telephone service provider; a means for receiving back from said mobile telephone service provider a position of said mobile telephone; a means for converting said position to a relational position; means for providing said relational position of said mobile telephone to a consumer [paragraphs 0004, 0025, 0053, 0058].

Regarding claim 11, Ross discloses said mobile telephone service provider blocks said request for location [paragraph 0051].

Regarding claim 12, Ross discloses said mobile telephone service provider uses assisted GPS to determine a longitude and latitude of said mobile telephone [paragraph 0028].

4. Claims 1, 4 and 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Herle et al., US Patent Application Publication Number 2003/0035544 (hereinafter Herle).

Regarding claim 1, Herle discloses a telephone location system comprising: an assisted GPS telephone handset; a telephone service provider providing assisted GPS

telephone location services in communication with said handset; a consumer location service facility accepting a request from a consumer to locate a particular cellular handset, said consumer location service facility cooperating with said telephone service provider to determine a telephone handset location of said particular telephone handset, said consumer location facility then communicating said telephone handset location to said consumer [paragraphs 0024, 0026, 0027, 0052; abstract].

Regarding claim 4, Herle discloses said consumer location facility communicates with said consumer by Internet [abstract].

Regarding claim 6, Herle discloses said telephone handset location is blocked by an action of an owner of said telephone handset [paragraph 0036].

Regarding claim 7, Herle discloses a method for providing consumers a telephone handset location comprising: requesting a telephone handset location from a consumer service facility; said consumer service facility requesting an assisted GPS service provider for a location of said handset; said assisted GPS service provider determining the location of said handset, said assisted GPS service provider communicating the location of said handset to said consumer facility; receiving by the consumer the location of said handset from said consumer service facility [paragraphs 0024, 0026, 0027, 0052; abstract].

Regarding claim 8, Herle discloses blocking said request when a handset owner has requested privacy [paragraph 0036].

Regarding claim 9, Herle discloses said request is via the Internet [abstract].

Regarding claim 10, Herle discloses a consumer service that provides locations of mobile telephones on demand from consumers for a fee, said consumer service comprising a means for communicating a consumer request for location of a mobile telephone to a mobile telephone service provider; a means for receiving back from said mobile telephone service provider a position of said mobile telephone; a means for converting said position to a relational position; means for providing said relational position of said mobile telephone to a consumer [paragraphs 0024, 0026, 0027, 0052; abstract].

Regarding claim 11, Herle discloses said mobile telephone service provider blocks said request for location [paragraph 0036].

Regarding claim 12, Herle discloses said mobile telephone service provider uses assisted GPS to determine a longitude and latitude of said mobile telephone [paragraph 0026].

5. Claims 13 and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaiwa et al., US Patent Application Publication Number 2002/0156646 (hereinafter Kaiwa).

Regarding claim 13, Kaiwa discloses a method providing consumers with the current location of a cellular telephone where a consumer service bureau communicates with a plurality of mobile service providers comprising the steps of: a consumer requesting from the consumer service bureau a current location of a particular mobile telephone by providing a telephone number of the mobile telephone to the consumer

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service bureau, whereby the consumer agrees to pay a first predetermined fee to the consumer service bureau for this service; the consumer service bureau determining which mobile telephone provider owns the telephone number provided by the consumer; the consumer service bureau requesting from the determined mobile telephone provider the location of the particular mobile telephone, whereby the consumer service bureau agrees to pay a second predetermined fee for this service to the mobile telephone provider; the mobile telephone provider placing a location request into its telephone system to locate the particular mobile telephone; the mobile telephone provider returning a position of the particular mobile telephone to the consumer service bureau; the consumer service bureau translating the returned position of the particular mobile telephone to a relational format if not in relational format; the consumer service bureau returning the position of the particular mobile telephone to the consumer in relational format or longitude and latitude [paragraphs 0007-0017, 0065, 0094-0097].

Regarding claim 17, Kaiwa discloses a telephone location system comprising a plurality of mobile service telephone providers pooling location services wherein a consumer could request at least one of said providers to locate a particular mobile telephone and said provider could communicate with any other of said providers to locate said mobile telephone and return a location of the telephone to said consumer [paragraphs 0007-0017, 0065, 0094-0097].

Regarding claim 18, Kaiwa discloses at least one of said service providers charges said consumer a fee for said return of said location [paragraphs 0013, 0014].

Regarding claim 19, Kaiwa discloses one of said service providers charges another of said service providers an access fee for said return of said location [paragraphs 0013, 0014].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiwa.

Regarding claim 14, Kaiwa does not specifically disclose returning an error message to the consumer service bureau if the particular mobile telephone cannot be located or is in privacy mode. However, the Examiner takes Official Notice that returning an error message is well known if a location cannot be determined for any reason. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature to let the user know that the location cannot be determined.

8. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiwa in view of Herle.

Regarding claim 15, Kaiwa does not specifically disclose a partial privacy mode controlled by an identification means to allow location access to parties presenting the

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identification means. However, Herle teaches this limitation [paragraph 0036]. At the time of the invention, it would have been obvious to one of ordinary skill in the art to include this feature to ensure the mobile user's privacy, as suggested by Herle [paragraph 0036].

Regarding claim 16, Herle discloses the identification means is a PIN number [paragraph 0036].

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zellner et al., US Patent Application Publication Number 2002/0077084, disclose location-blocking service from a web advertiser.

Wilson et al., US Patent Application Publication Number 2004/0203903 disclose providing location-based services in a wireless network, such as modifying locating privileges among individuals and managing lists of individuals associated with such privileges.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG
April 27, 2005


ERIKA A. GARY
PRIMARY EXAMINER